THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.16687 of 1999

Dated: 13.06.2007

Between:

Cheekatla Peda Satyanarayana, S/o Naganna,
Kuyyuru, Kajuluru Mandal,
E.G.Dist and others.

....PETITIONERS

AND

The Dist Collector,
E.G.Dist Kakinada and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.16687 of 1999

ORDER:

Petitioners claim to be the cultivating tenants of the land bearing Sy.No.293 admeasuring Acs.1.21 cents situated at Koyyeru village, Kajuluru Mandal in East Godvari District, belonging to the fourth respondent-Sri Malleswara Swamivari Devasthanam. Originally, petitioners' father used to cultivate the said land since 1979 and after his demise, petitioners have been cultivating the same and paying makta to the fourth respondent-Temple. Be that as it may, the first respondent issued a notification, dated 08.03.1999, under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act"), proposing to acquire the said land for providing house sites to weaker sections. Enquiry under Section 5-A of the Act was dispensed with, invoking urgency clause under Section 17(4) of the Act. Petitioners allege that though they are entitled to notice under Section 3(b) of the Act, without issuing any such notice and without following due process of law, respondents are trying

to dispossess them from the land in question. It is their case that in G.O.Ms.No.456, Revenue (Endowments-II) Department, dated 29.09.1995, the Government has issued specific instructions that while acquiring the endowment lands, care should be taken to see that small tenants are not adversely affected. In that view of the matter, when Government poramboke land is available at Koyyur village, the respondents ought not to have proposed to acquire the land in question affecting the rights of the petitioners, who are small farmers, without acquiring the poramboke land. Hence, this writ petition seeking to set aside the impugned notification dated 08.03.1999 issued by the first respondent.

Detailed counters have been filed on behalf of respondents 1 to 3 and the third respondent, separately. In the counter filed by respondents 1 to 3, it is stated that the petitioners' father was granted lease in respect of an extent of Ac.1.18 cents for a period of from 1980-81 to 1985-86, vide proceedings of the Commissioner of Endowments, dated 22.08.1981 and thereafter, the alleged tenancy was never approved. Therefore, petitioners are encroachers and not entitled to any compensation. It is further stated that subsequent to issuance of notification under Section 4(1) of the Act, all the proceedings initiated under the Act were completed and compensation was also determined and that eighty percent of the compensation was also deposited with the temple authorities. As the petitioners have no right, whatsoever, over the land in question, they were not given any notice.

Further, in the counter filed on behalf of the fourth respondent it is stated that with the advent of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act"), sharing of compensation between the tenants and the temples is abolished and the same was also upheld by the Supreme Court. If the tenant continues to be in occupation of the endowment land without the approval Government, he is deemed to be an encroacher, and as such

not entitled to any compensation. When that being the situation, as the petitioners are mere encroachers, they cannot claim any compensation for the land in question.

Learned counsel for the petitioners tried to establish that petitioners are tenants of the said temple and in that context, he produced certain documentary evidence. This Court is not inclined to look into the said documents as it is not for this Court to decide as to whether petitioners are the tenants of the fourth respondent or not. However, as there is a dispute between the fourth respondent and the petitioners, this Court is of the view that the matter can as well be decided by a competent civil Court under Section 30 of the Act.

Accordingly, the writ petition is disposed of directing the petitioner to file an application before the Land Acquisition Officer concerned, under Section 30 of the Act, and on such application being filed, the Land Acquisition Officer shall decide as to whether petitioners are entitled for any share of compensation. If he finds that they are entitled to compensation, he shall apportion the compensation between the petitioners and the fourth respondent, keeping in view the relevant provisions of law. There shall be no order as to costs.

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13.06.2007

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